



WWW Walkers Web Words

www.chesterfieldramblers.com

News Flash 82



Editor and Publisher: Basil Merry

September 2014

Martins Lane, Wingerworth, under threat

In the Newsletter we have often featured, and asked for assistance, in fending off applications made by the Trail Riders Federation early this century to turn non-classified highways and public rights of way into Byways Open to all Traffic (BOAT's).

If successful with these applications BOAT status allows motor cycle users, quad bikers, and other off-roaders, to use the routes (which in our opinion were not designed or intended for motor vehicle use), causing serious surface damage, and often rendering them un-useable by the far greater number of pedestrian users. To compound the problem the routes claimed were often iconic routes in the Peak District.

Rightly most attention has been concentrated on them with the Peak District Green Lanes Alliance (PDGLA) at the fore fighting a very successful campaign.

But Chesterfield Borough, North East Derbyshire, and Bolsover are not immune. So far there have been a few successful BOAT applications locally e.g. part of Westwick Lane, Walton, with only 1 kilometre of BOAT in our area in North East Derbyshire in 2013 compared to 18 km in the Peak Park.

We are now faced with a public consultation by Derbyshire County Council (DCC) on a BOAT application for Martins Lane, Wingerworth which forms part of the Chesterfield Round Walk. Clearly we aim to fight this proposal and the following from David Selkirk explains the situation:-

Martins Lane - BOAT Claim

What is it all about?

The Trail Riders Fellowship (TRF) has submitted a claim to the County Council for Martins Lane to become a Byway Open to All Traffic (BOAT). It would then be a public right of way for all vehicles - off-road motorcycles, quad bikes & 4 wheel drives.

How will the claim be decided?

There are two ways in which the claim could succeed. One is via supporting historical evidence. The other is via proving 20 years unchallenged use.

Historical evidence

The law in this area is archaic. If old maps or documents show that at one time Martins Lane was a public carriageway, i.e. the public had a right to take their horse & cart along it, then it will be deemed to be a byway open to all traffic now. The fact that "all traffic" at that time was horse drawn and now includes motor vehicles is of no concern to the law(!)

If such historical evidence does exist, that alone would be conclusive proof and nothing else at all can be taken into account. Fortunately for those of us who oppose the claim, that seems unlikely to be the case. Preliminary research indicates that historical records will only support footpath or bridleway status.

20 years' use

The vehicle users will therefore have to demonstrate that they have used Martins Lane freely for a period of 20 years, without any challenge by the landowner or adjacent landowners during this time. (This is known as "presumed dedication" of a public right of way. If the landowner has made no attempt to stop it for 20 years, the law presumes he has consented to it.)

The 20 year period is up to the date when the claim was submitted, which in this case was 2 February 2004. (It has taken the County Council over 10 years to start dealing with it because the TRF submitted a huge number of claims across the County & it is a lengthy process dealing with each one.) So the 20 year period in question is from the beginning of 1984 up to 2004.

How can the claim be opposed?

The County Council is holding a public consultation which ends on 14 October.

Vehicle users will be submitting statements of evidence to say that have used Martins Lane unchallenged between 1984 & 2004. We don't believe that motorcyclists started using the Lane until much later than 1984, but experience with other claims has shown that they have 'poor memories' in this respect.

We need evidence statements from landowners, local residents and people who used Martins Lane between 1984 & 2004 (walkers, dog walkers, horse riders & cyclists) to prove any of the following:

- that vehicle use started later than 1984
- that it was challenged (e.g. by a sign or locked gate)
- that it caused a nuisance (e.g. damage, danger to others, noise)

Evidence is best provided on a standard statement form provided by the County Council for this purpose. I can provide you with a copy of the form and a map extract which has to accompany it.

Horse Riders

As well as helping to provide evidence against the TRF claim, horse riders are advised to submit evidence of their own use of Martins Lane to protect their position. It is possible that historical records will indicate that the Lane should only have footpath status, in which case horse riders would no longer be able to use it. Riders' only option then would be to object to the decision & fight their case at a public enquiry. It is better to submit evidence of 20 years use between 1984 & 2004 (in aggregate, not necessarily individually) at this stage so that it can be taken into account in the initial decision.

Notes

The TRF also submitted a BOAT claim for a connecting route from Nethermoor Road to the top of Martins Lane & onward to Ashover Road. This would have given them a through route connecting these roads with Derby Road. Fortunately they made a serious error in their application, describing the wrong route entirely, and the application was rejected as invalid. There is no second chance, so this route is safe.

On Martins Lane, a short section in the middle (between the bottom of the cinder track & footpath steps) is a public footpath. As a result, even if the claim were to succeed this section could not become a BOAT. It would become a 'restricted byway', open to all traffic except vehicles. So vehicles could only travel from Derby Road as far as this byway and would have no legal right to access the western end of the Lane beyond.

All this good news should not make us complacent though. This speculative claim which has caused a lot of anxiety needs to be seen off comprehensively.

David Selkirk

01246 274459

david.selkirk@googlemail.com

What can you do?

As above if you are able to provide any evidence supporting our case please contact David for the standard form and map extract urgently.

Please remember the **deadline for submissions is 14 October 2014.**

The Group will also be making a submission together with Wingerworth Parish Council and several local residents.

Thank you for your assistance.